

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

David Spurlock,)	
)	
Plaintiff,)	
)	
V.)	Case No. 09-3392-CV-S-JTM
)	
Michael J. Astrue,)	
)	
Defendant.)	

ORDER

Pending before the Court is plaintiff's *Application For Attorney Fees Under the Equal Access To Justice Act*, filed December 17, 2010 [Doc. 25]. Defendant opposes the plaintiff's motion inasmuch as the motion for fees was filed a single day outside of the 30-day deadline set out in the EAJA.¹ Inasmuch as the Court finds the single-day delay excusable in this case and most certainly would have granted a single-day extension had it been requested to do so, the Court also finds that principles of equity dictate that a denial of fees in the amount of \$2,670.24 simply because they were requested a single day outside of an admittedly non-jurisdictional time requirement is far too harsh, particularly since the defendant cites no prejudice from the delay – other than its need to rely upon the assumption that cases can be closed on the date the 30 day time period expires.

¹ Defendant also makes specific requests for reduction in fees and costs to which the plaintiff has agreed.

Accordingly, it is

ORDERED that plaintiff's *Application For Attorney Fees Under the Equal Access To Justice Act*, filed December 17, 2010 [Doc. 25] is **GRANTED**. Plaintiff is awarded \$2,670.24 in EAJA fees.

/s/ John T. Maughmer

JOHN T. MAUGHMER
U. S. MAGISTRATE JUDGE